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DAVID E. JANSSEN
Chief Administrative Officer

June 3, 2005

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To: Supervisor Gloria Molina, Chair
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From: David E. Janssen
Chief Administrative Officer

COMMISSION FOR WOMEN RECOMMENDATION TO SUPPORT AB 22 (LIEBER AND LIU) – HUMAN TRAFFICKING (ITEM NO. 26, AGENDA OF JUNE 7, 2005)

Item No. 26 on the June 7, 2005 Agenda is a recommendation by the Commission for Women to support AB 22 (Lieber and Liu) related to the problem of human trafficking, and send a letter to the Governor and Legislative Leadership in support of the measure.

The Commission's Board Letter included my office's analysis of AB 22 of March 22, 2005. Since that time, AB 22 has been amended. This memorandum outlines those amendments which do not change our view that **support of AB 22 is a matter for Board policy determination.**

Background

AB 22, as introduced on December 6, 2004, would create two new felonies to be known as "Human Trafficking". They are: 1) to knowingly recruit, entice, harbor, or transport a person, who will be subjected to forced labor or service; and 2) to knowingly recruit, entice, harbor, or transport another person under 18 years of age intending the minor to engage in commercial sexual activity.

Additionally, AB 22 would: 1) increase the prison term, by an unspecified amount, if human trafficking involves bodily injury to the victim, kidnapping, sexual abuse, or attempt to kidnap or commit sexual abuse, or an attempt to kill; 2) require the courts to set the victim's restitution equal to the defendant's gross income from the activity, or the value of the victim's labor or services to the defendant, or the value of the victim's labor as guaranteed under the Fair Labor and Standards Act, whichever is greater; 3) require

the Attorney General to give priority to matters involving human trafficking; 4) require the Attorney General and the State Department of Social Services to report to the Legislature by January 1, 2007 outlining how current laws protect victims and witnesses, and to make recommendations for improvements; 5) require every state and local law enforcement agency to report all "trafficking" violations to the Attorney General and issue a Law Enforcement Authority Endorsement (LEA) within 15 business days of initial contact with the victim related to Federal immigration benefits that may be available; 6) require the Commission on Police Officer Standards to develop a course of instruction on human trafficking; 7) require the Victim's Compensation and Government Claims Board to establish criteria for local shelters designated for trafficking victims; and 8) create an anti-trafficking advisory task force to assist the Legislature with guiding and coordinating anti-trafficking efforts.

Current Version on AB 22

The current version of AB 22, as amended on May 4, 2005, makes the following changes: 1) recasts the new felony related to "commercial sexual activity" to an activity that results in financial gain from human trafficking; 2) specifies the prison term for human trafficking felonies as 3, 4, or 6 years, and for cases with victims under the age of eighteen, 3, 6, and 8 years; 3) establishes civil penalties; 4) adds human trafficking to the list of offenses subject to forfeiture under criminal profiteering laws; 5) creates a misdemeanor offense for malicious disclosure of the location of a shelter assisting victims of human trafficking; 6) requires the adoption of State guidelines for victim restitution; 7) defines a "human trafficking caseworker" and establishes an evidentiary privilege for communications with a trafficking victim; and 8) deletes a requirement for the Attorney General and the State Department of Social Services to report to the Legislature with additional actions and recommendations in lieu of those activities being performed by the proposed anti-trafficking advisory task force.

The Sheriff's Department indicates that they support AB 22, and the District Attorney supports the bill if amended, to address several concerns which are expected to be favorably worked-out with the sponsor.

The Department of Public Social Services indicates AB 22 would not have an impact on their operations, but they concur with the Commission for Women's recommendation to support.

The Public Defender indicates that while AB 22 provides new protections and benefits to victims of drug trafficking, the creation of new crimes and increased punishment is not necessary because it is already a crime to hold or attempt to hold any person in involuntary servitude.

According to the author's office, the bill is sponsored by San Francisco District Attorney Kamala Harris and the California Anti-Trafficking Initiative, and supported by a number of organizations including Asian Pacific Islander Legal Outreach, California Alliance for

Consumer Protection, California Commission on the Status of Women, California Province of the Sisters of the Holy Names of Jesus and Mary, Crowley Children's Fund, Dominican Sisters of San Rafael, and Peace Officers Research Association of California. The California Public Defenders Association has expressed opposition to the provisions of AB 22, which establish new crimes for human trafficking.

Status

On May 31, 2005, AB 22 passed the Assembly by a vote of 57 to 11, and is pending assignment by the Senate Rules Committee.

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MAL:JF:ib

c: Executive Officer, Board of Supervisors
 County Counsel
 Department of Public Social Services
 District Attorney
 Public Defender
 Sheriff
 Legislative Strategist